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**PETROLEUM
MARKETERS
ASSOCIATION OF
AMERICA**

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July 2, 2003

Dockets Management System
U.S. Department of Transportation
Room Plaza 401
400 Seventh St., SW
Washington, DC 20590-0001

DEPT OF TRANSPORTATION
DOCKETS
2003 JUL -2 A 11:18

RE: PMAA Comments on TSA's Security Threat Assessment for Individuals Applying for a Hazardous Materials Endorsement for a Commercial Drivers License

Docket No. TSA-2003-14610 - 27

Docket Clerk:

The Petroleum Marketers Association of America (PMAA) appreciates the opportunity to comment on the Transportation Security Administration's (TSA) Interim Final Rule on establishing threat assessment standards for determining whether an individual poses a security threat warranting denial of a hazardous materials endorsement for a commercial drivers license (CDL).

PMAA is a federation of 44 state and regional trade associations representing over 8,000 small, independent petroleum marketers. These marketers sell nearly half the gasoline, over 60 percent of the diesel fuel, and approximately 85 percent of the home heating oil consumed in this country annually. Our members are required to have a hazardous materials endorsement for their CDLs and are therefore interested in the rule.

PMAA supports the rule with one exception. We are concerned that once a driver has undergone a background check, only the state that issues the hazardous materials endorsement and the holder of the endorsement are notified of the qualification status. Under the new rules, there is no mechanism for the employer to be notified. This, in effect, leaves it up to the employee to tell his employer if he has become disqualified for the endorsement. For PMAA members, this would result in his loss of employment, which could deter an employee from being truthful.

Currently employers are required annually to check on the status of their employee's driving record with their state agency. PMAA is concerned about the scenario of a driver being disqualified without the employer knowing when the employer's regular annual status check won't be for weeks or months after the disqualification.

To solve this problem, PMAA would like to suggest that TSA require states to implement a notification program such as the one they have in Arkansas. The Information Network of Arkansas (INA) operates under the authority of Arkansas code and works with the state agencies to provide public access to information.

Using the Internet, INA has developed "Driver Watch," a tool to monitor the validity of any CDL issued in Arkansas. For a small fee, Driver Watch will review CDLs identified by an employer once per week, and email the employer of any change in status. If the status has changed, a full driving record will be pulled and made available online immediately. If the full driving record is pulled, the employer will be charged \$12. This charge is in addition to a \$50 per year subscription fee but we believe this is still a minimal and affordable amount.

Another concern over lack of employer notification is the question of liability. For instance, if an employee has been disqualified and has failed to tell his employer, then proceeds to use a petroleum truck in a terrorist act, is the employer responsible for this action? Who is at fault for the driver continuing to transport hazardous products?

PMAA strongly encourages TSA to consider mandating that states make available to employers the status of their driver's hazardous materials endorsement. Relying on an employee to come forward after a negative background check is just not reasonable. As shown in Arkansas, a notification system is both effective and inexpensive for both the state and the employer community.

Thank you for your consideration of the foregoing comments of the Petroleum Marketers Association of America. If you have any questions on the above, or would like to speak with us further about our concerns, please do not hesitate to contact me at 703-351-8000, ext. 30.

Sincerely,

A handwritten signature in cursive script that reads "Laura Tague".

Laura Tague
Director of Regulatory Policy